

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE-OPELOUSAS DIVISION**

**UNITED STATES OF AMERICA**

**CRIMINAL NO. 06-60005**

**VS.**

**JUDGE DOHERTY**

**EZEQUIEL TREVINO**

**MAGISTRATE JUDGE METHVIN**

**ORDER REQUIRING SUBMISSION OF AFFIDAVITS  
IN SUPPORT OF MOTION TO SUPPRESS**

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Before the court are two motions to suppress filed by defendant Ezequiel Trevino on May 26, 2006.<sup>1</sup> The first motion seeks to suppress statements made by Trevino during plea negotiations, while the second motion seeks to suppress all evidence obtained as the result of a traffic stop. The delay for filing response briefs has not yet passed.

An evidentiary hearing on a motion to suppress is required only when the defendant alleges material disputed facts which, if proven, would justify relief. FED.R.CR.P. 41(E); United States v. Harrelson, 705 F.2d 733, 737 (5<sup>th</sup> Cir. 1983). Factual allegations set forth in the motion and accompanying affidavits must be “sufficiently definite, specific, detailed, and non-conjectural, to enable the court to conclude that a substantial claim is presented.” Id., quoting Cohen v. United States, 378 F.2d 751, 761 (9<sup>th</sup> Cir.), cert. denied, 389 U.S. 897, 88 S.Ct. 217, 19 L.Ed.2d 215 (1967). General or conclusory assertions will not suffice. Harrelson, 705 F.2d at 737.

The factual allegations in the instant motions are clear and concise. If defendant identifies witnesses who will testify to the allegations, an evidentiary hearing will be necessary to resolve the motion. However, neither memorandum is supported by an affidavit or declaration subject to penalties of perjury as required by the Criminal Scheduling Order and applicable law.

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<sup>1</sup> Rec. Docs. 29 & 30.

**IT IS THEREFORE ORDERED** that *on or before June 6, 2006*, defendant shall file the necessary *affidavits and/or declarations under penalty of perjury*.<sup>2</sup> The following standards shall apply:

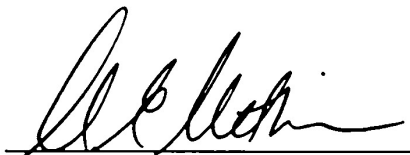
1. **Contents of Declarations:**<sup>3</sup> Each supporting affidavit or declaration shall set forth, under penalty of perjury, the specific facts upon which it is contended the motion should be granted or denied. The facts alleged must be admissible under the Federal Rules of Evidence. Declarations shall not include conclusions of law or legal argument. Each declaration shall show affirmatively that the declarant is competent to testify to the matters stated therein.
2. **Availability of Declarants:** Each declarant shall indicate his or her intention to testify at any evidentiary hearing which may be held, and shall be available for cross-examination at any such hearing, unless the government does not dispute the facts contained in the declaration.

**IT IS FURTHER ORDERED** that a copy of the affidavits or declarations shall be faxed or delivered to chambers of the undersigned magistrate judge and to counsel for the government by the due date.

**IT IS FURTHER ORDERED** that the government shall file a response to the defendant's motions *on or before June 13, 2006*.

**IT IS FURTHER ORDERED** that the Clerk shall FAX a copy of this order to counsel for Trevino and counsel for the government.

Signed at Lafayette, Louisiana, on May 30, 2006.

  
Mildred E. Methvin  
United States Magistrate Judge

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<sup>2</sup> See 28 U.S.C. 1746.

<sup>3</sup> Affidavits may be submitted in lieu of declarations. The same standards apply.